



BILLING CODE 4910-60-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2019-0149; PDA-40(R)]

Hazardous Materials: The State of Washington Crude Oil By Rail – Vapor Pressure Requirements

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice, and extension of comment period.

SUMMARY: PHMSA is extending the period for comments on the State of North Dakota and the State of Montana's application for an administrative determination as to whether Federal hazardous material transportation law preempts the State of Washington's rules relating to the volatility of crude oil received in the state.

DATES: Comments received on or before September 23, 2019, and rebuttal comments received on or before October 23, 2019, will be considered before an administrative determination is issued by PHMSA's Chief Counsel. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: All documents in this proceeding, including North Dakota and Montana's application and all comments received, may be reviewed in the Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. All documents in this proceeding are also available on the U.S. Government Regulations.gov website: <http://www.regulations.gov>.

Comments must refer to Docket No. PHMSA-2019-0149 and may be submitted by any of the following methods:

- *Federal eRulemaking Portal*: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax*: 1-202-493-2251.
- *Mail*: Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- *Hand Delivery*: Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

A copy of each comment must also be sent to (1) Wayne Stenehjem, Attorney General, The State of North Dakota, Office of the Attorney General, 600 East Boulevard Avenue, Department 125, Bismarck, ND 58505-0040, and (2) Tim Fox, Attorney General, The State of Montana, Office of the Attorney General, Justice Building, Third Floor, 215 North Sanders, Helena, MT 59620-1401. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: I certify that copies of this comment have been sent to Mr. Stenehjem and Mr. Fox at the addresses specified in the Federal Register.”)

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing a comment submitted on behalf of an association, business, labor union, etc.). You may review

DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477-78), or you may visit <http://www.regulations.gov>.

A subject matter index of hazardous materials preemption cases, including a listing of all inconsistency rulings and preemption determinations, is available through PHMSA's home page at <http://phmsa.dot.gov>. From the home page, click on "Regulations and Compliance," then on "Standards & Rulemaking," then on "Hazardous Materials Standards and Rulemaking," then on "Preemption Determinations" located on the left side of the page. A paper copy of the index will be provided at no cost upon request to Mr. Lopez, at the address and telephone number set forth in the FOR FURTHER INFORMATION CONTACT section below.

FOR FURTHER INFORMATION CONTACT: Vincent Lopez, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, DC 20590; Telephone No. 202-366-4400; Facsimile No. 202-366-7041.

SUPPLEMENTARY INFORMATION:

The State of North Dakota and the State of Montana have applied to PHMSA for a determination whether Federal hazardous material transportation law, 49 U.S.C. 5101 et seq., preempts the State of Washington's Engrossed Substitute Senate Bill 5579, Crude Oil By Rail – Vapor Pressure. Specifically, North Dakota and Montana allege the law, which purports to regulate the volatility of crude oil transported in Washington state for loading and unloading, amounts to a de facto ban on Bakken¹ crude.

¹ According to the applicants, North Dakota and Montana are home to the Bakken Shale Formation, a subsurface formation within the Williston Basin. It is one of the top oil-producing regions in the country and one of the largest oil producers in the world.

PHMSA published a notice of the State of North Dakota and the State of Montana's application in the Federal Register on July 24, 2019 (84 FR 35707)². On July 29, 2019, the State of Washington asked us for an extension of time in which to file comments. The State of Washington believes the original 30-day comment period is an inadequate amount of time for it and other interested parties to thoroughly and properly comment on the application.

After review of the State of Washington's request, we have granted its request.

Issued in Washington, DC, on August 7, 2019.

Paul J. Roberti,
Chief Counsel.

² <https://www.govinfo.gov/content/pkg/FR-2019-07-24/pdf/2019-15675.pdf>

